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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,289	03/12/2004	Randy Boudreaux	20576.0001(2)	8263

7590 08/19/2009  
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EXAMINER
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BRADFORD, CANDACE L

ART UNIT	PAPER NUMBER
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3634

MAIL DATE	DELIVERY MODE
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08/19/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,289	<b>Applicant(s)</b> BOUDREAUX, RANDY	
	<b>Examiner</b> CANDACE L. BRADFORD	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

Claim 2 is objected to because of the following informalities: It is unclear to the examiner if the applicant is claiming that the system requires one or two tripods.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

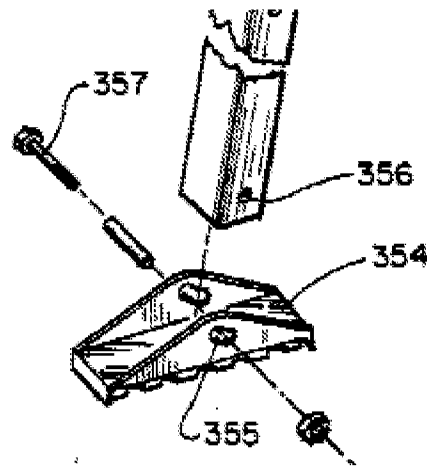
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et. al. (6838614) in view of Olson et.al. (4589523). Silverman et. al discloses at least one member 43, adapted to be secured, as recited in column 5, line 12, to the storage tank 10 (tank is considered the base and walls only),

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Referring first to FIG. 1, a floating roof storage tank 10 has a sloped or dome-shaped roof 12 over a cylindrical side wall 14 and a floor 16. The floating roof storage tank 10 includes a floating roof 18 separating the liquid 22 within the tank 10 from the atmosphere. Olson et. al. teaches at least one structure 12, adapted to secure said member to the storage tank (domed roof 12 connects 43 to tank via roof), but fails to disclose at least one pocket, adapted to secure said tripod member to said storage tank. Olson et. al. teaches the utility of a pocket 354, adapted to secure/grip a tripod member 340 to a surface, as best recited in column 15, lines 57-64

the legs are adjustable in length. A pivotal foot 354 of a conventional foot ladder construction may comprise slotted holes 355 therein coaxially positionable with lower leg hole 356 and secureable to the lower leg as by 60 pin assembly 357. Thus, the tripod is provided with three adjustable length legs having pivotal gripping foot portions. The upper portion of each upper leg is pivotally secured to an associated fixed leg support 326, 328, etc. by a leg pivotal attachment bolt 368, FIG. 9, which 65 is received within opposite circular bores 362 in the fixed leg support and through opposite circumferential



The use of a pocket to secure a tripod member to a surface is commonly used in the art to allow the tripod member to stay in place while in use. Therefore it would have been obvious to one of ordinary skill in the art to provide the retrieving apparatus of Silverman et. al. with a securing pocket as taught by Olson et. al. so as to allow the tripod member to stay in place while in use.

Claims 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et. al. (6838614) in view of Olson et.al. (4589523). Silverman et. al discloses the at least one member adapted to be secured to the storage tank 10, at least one structure 12, adapted to secure said member to the storage tank, , adapted to secure said tripod member to said storage tank, a tripod 43, a mechanical device 41 for lifting a load and a ladder as recited in column 1, line 43 but fails to disclose at least one member, adapted to be secured to the storage tank. Olson et. al. teaches the utility of a pocket 354, adapted to secure/grip a tripod member 340 to a surface, as best recited

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the legs are adjustable in length. A pivotal foot 334 of a conventional foot ladder construction may comprise slotted holes 335 therein coaxially positionable with lower leg hole 336 and secureable to the lower leg as by 60 pin assembly 337. Thus, the tripod is provided with three adjustable length legs having pivotal gripping foot portions. The upper portion of each upper leg is pivotally secured to an associated fixed leg support 326, 328, etc. by a leg pivotal attachment bolt 368, FIG. 9, which 65 is received within opposite circular bores 362 in the fixed leg support and through opposite diametrically . The utility of a member to be secured to a surface is commonly used in the art to allow the tripod member to stay in place while in use. Therefore it would have been obvious to one of ordinary skill in the art to provide the retrieving apparatus of Silverman et. al. with a securing member as taught by Olson et. al. so as to allow the tripod member to stay in place while in use.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et. al. (6838614) in view of Olson et.al. (4589523) in further view of Winslow (4753321). Silverman et. al. in view of Olson et. al. fails to disclose the method of positioning a ladder besides a storage tank, and mounting the storage tank. Winslow teaches the utility of a ladder 39, positioned beside a storage tank 12. It would be obvious to one of ordinary skill in the art to provide the apparatus of Silverman et. al. in view of Olson et. al. with a ladder positioned besides a storage tank, to allow a person to gain entry to the top of the storage tank and descend from the tank to the ground. Therefore, it would have been further obvious in view of the structure of Winslow to position a ladder beside a storage tank, and mounting a storage tank, while producing no new and unexpected results. It would have been further obvious of the structure of Silverman et. al. in view Olson et. al. and Winslow as advanced above to use the platform apparatus in the method as claimed, i.e., securing the adaptor mechanism,

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securing the tripod, using the mechanical device, descending the ladder, as best seen in Figure 12 of Olson et. al., while producing no new and unexpected results.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDACE L. BRADFORD whose telephone number is (571)272-8967. The examiner can normally be reached on 9am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Candace L. Bradford

Patent Examiner

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August 9, 2009

/KATHERINE W MITCHELL/

Supervisory Patent Examiner, Art

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